

Law Office of
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April 26, 2018 a

BY ECF

Hon. Vernon S. Broderick
Southern District of New York
40 Foley Square, Room 415
New York, NY 10007

Re. Zayas v. 207th Street Realities, LLC, et al.
S.D.N.Y. 17cv9724 (VSB)(KHP)

Dear Judge Broderick on:

This office represents the plaintiff in the above referenced action. Pursuant to the Order and Notice of Initial Conference, parties submit this joint letter.

1. A brief statement of the nature of the case, the principal claims and defenses, and the major legal and factual issues that are most important to resolving the case, whether by trial, settlement or dispositive motion

Plaintiff filed this putative class action seeking redress for Defendants 27-year long disability discrimination in violation of the Title III of the Americans with Disabilities Act, New York State Human Rights Law, and New York City [Administrative Code] Human Rights Law. Presently, Plaintiff has direct evidence of defendants' unlawful discrimination and architectural barriers.

To resolve this action, it is necessary to identify each architectural barrier and determine the necessary remedies and alterations. In addition, we need to determine what type of monetary damages would fairly compensate plaintiff, as well as reasonable attorney's fees and costs.

Defendant's principal defenses to this action include that barriers to access do not exist and/or that it is not reasonably or readily achievable to remove the alleged barriers.

**Law Office of
James E. Bahamonde, P.C.**

April 26, 2018
Page - 2 -

2. A brief statement of why jurisdiction and venue lie in this court. If any party is a corporation, the letter shall state both the place of incorporation and the principal place of business. If any party is a partnership, limited partnership, limited liability company or trust, the letter shall state the citizenship of each of the entity's members, shareholders, partners and/or trustees;

The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because the claims in this case arises under the Americans with Disabilities Act, 42 U.S.C. § 12117. The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343, as this action involves federal questions regarding the deprivation of Plaintiff's rights under the Americans with Disabilities Act. The Court has supplemental jurisdiction over Plaintiff's allegations arising from Defendants' state and local law violations pursuant to 28 U.S.C. § 1367(a).

Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to this action, alleged herein, occurred in New York County.

The LLC defendants are incorporated in New York and have their principal place of business in New York City. The Member of both LLCs is a United States citizen.

3. A brief description of all contemplated and/or outstanding motions;

Plaintiff brings this suit as a class action for all those similarly situated, who, as persons who must use a wheelchair by reason of various disabilities, and who use or desire to use the services and accommodations offered to the public by Defendant, are protected by, and are beneficiaries of the ADA, New York State law and New York City Administrative Code. Consequently, plaintiff may seek class certification.

Under the ADA and New York City Administrative Code, Plaintiff is entitled to reasonable attorney's fees and costs. Therefore, if Plaintiffs are to prevail in this action, they will move for attorney's fees and costs.

4. A brief description of any discovery that has already taken place, and/or that which will be necessary for the parties to engage in meaningful settlement negotiations

No discovery has taken place. Pursuant to the Federal Rules of Evidence, Rules 602 and 701, Plaintiff intends to present direct evidence demonstrating Defendants disability discrimination and unlawful architectural barriers in violation of federal, state, and local laws. In addition, pursuant to 803 and 806, Plaintiff intends to attack defendants' agent's credibility related to its compliance with federal, state, and local laws.

**Law Office of
James E. Bahamonde, P.C.**

April 26, 2018
Page - 3 -

5. A brief description of prior settlement discussions and the prospects of settlement;

On March 1, 2018, Plaintiff served Defendants with a detailed written settlement demand/proposed settlement agreement. Since then, Plaintiff's counsel had a lengthy telephone conference with ALTAGRACIA I. ABREU's attorney, Argilio Rodriguez. We anticipate settling this action without the need of discovery, and with that goal in mind, are trying to finalize the terms of a reasonable settlement.

6. The estimated length of trial;

2-3 days

7. Any other information the parties believe may assist the Court in resolving the action.

None.

Respectfully Yours,

/s/ James E Bahamonde

James E. Bahamonde, Esq.

cc: (via ECF)
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